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and the Highland Claimant Trust*

*Counsel for James P. Seery, Jr.*

**IN THE UNITED STATES BANKRUPTCY COURT  
FOR THE NORTHERN DISTRICT OF TEXAS  
DALLAS DIVISION**

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In re:

HIGHLAND CAPITAL MANAGEMENT, L.P.,<sup>1</sup>

Reorganized Debtor.

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) Chapter 11  
)  
) Case No. 19-34054-sgj11  
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)  
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**DECLARATION OF JOSHUA S. LEVY IN SUPPORT OF HIGHLAND CAPITAL  
MANAGEMENT, L.P., HIGHLAND CLAIMANT TRUST, AND JAMES P. SEERY,  
JR.'S JOINT MOTION FOR AN ORDER REQUIRING SCOTT BYRON ELLINGTON  
AND HIS COUNSEL TO SHOW CAUSE WHY THEY SHOULD NOT BE HELD IN  
CIVIL CONTEMPT FOR VIOLATING THE GATEKEEPER PROVISION AND  
GATEKEEPER ORDERS**

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<sup>1</sup> Highland's last four digits of its taxpayer identification number are (8357). The headquarters and service address for Highland is 100 Crescent Court, Suite 1850, Dallas, TX 75201.

I, Joshua S. Levy, pursuant to 28 U.S.C. § 1746(a), under penalty of perjury, declare as follows:

1. I am counsel in the law firm of Willkie, Farr & Gallagher LLP, counsel to James P. Seery, Jr., and I submit this Declaration in support of *Highland Capital Management L.P., Highland Claimant Trust, and James P. Seery, Jr.'s Joint Motion to For an Order Requiring Scott Byron Ellington and His Counsel to Show Cause Why They Should Not Be Held in Civil Contempt for Violating the Gatekeeper Provision and Gatekeeper Orders* (the "Motion") being filed concurrently with this Declaration. I submit this Declaration based on my personal knowledge and review of the documents listed below.

2. Attached as **Exhibit 1** is a true and correct copy of *Plaintiff's Fourth Motion to Compel* filed in the District Court of Dallas County, Texas in the action captioned *Scott Byron Ellington v. Patrick Daugherty*, Cause No. DC-22-00304 (the "Stalking Action").

3. Attached as **Exhibit 2** is a true and correct copy of *Plaintiff's Original Petition, Application For Temporary Restraining Order, Temporary Injunction, and Permanent Injunction* in the Stalking Action.

4. Attached as **Exhibit 3** is a true and correct copy of *Scott Ellington's Reply in Support of Motion to Abstain and to Remand* Filed in the United States Bankruptcy Court for the Northern District of Texas in the adversary proceeding captioned *Scott Byron Ellington v. Patrick Daugherty*, Adversary Proceeding No. 22-03003-sgj (N.D. Tex. Bankr.) (the "Stalking Action Adversary Proceeding").

5. Attached as **Exhibit 4** is a true and correct excerpted copy of the transcript of the hearing conducted before this Court for the Stalking Action Adversary Proceeding on March 29, 2022.

6. Attached as **Exhibit 5** is a true and correct copy of the *Subpoena Duces Tecum Pursuant to the Uniform Interstate Deposition and Discovery Act and CPLR § 3119* in the Stalking Action, dated November 3, 2022.

7. Attached as **Exhibit 6** is a true and correct excerpted copy of the transcript of the hearing conducted before this Court on June 8, 2023.

8. Attached as **Exhibit 7** is a true and correct copy of the *Subpoena Ad Testificandum Pursuant to the Uniform Interstate Deposition and Discovery Act and CPLR § 3119* in the Stalking Action, dated June 19, 2023.

9. Attached as **Exhibit 8** is a true and correct copy of the amended *Subpoena Ad Testificandum Pursuant to the Uniform Interstate Deposition and Discovery Act and CPLR § 3119* in the Stalking Action, dated July 13, 2023.

10. Attached as **Exhibit 9** is a true and correct copy of an email thread dated from June 22, 2023 to June 30, 2023, between counsel for James P. Seery, Jr., counsel for Highland Capital Management, L.P., counsel for Judge Russell Nelms, and counsel for the plaintiff in the Stalking Action.

11. Attached as **Exhibit 10** is a true and correct copy of an email string dated from June 19, 2023 to July 27, 2023, between counsel for James P. Seery, Jr., counsel for Highland Capital Management, L.P., and counsel for the plaintiff in the Stalking Action.

12. Attached as **Exhibit 11** is a true and correct copy of the production cover letter from counsel to James P. Seery Jr. responsive to the *Subpoena Duces Tecum Pursuant to the Uniform Interstate Deposition and Discovery Act and CPLR § 3119* in the Stalking Action, dated July 14, 2023.

13. Attached as **Exhibit 12** is a true and correct copy of an email string dated from July 14, 2023 to July 25, 2023, between counsel for James P. Seery, Jr., counsel for Highland Capital Management, L.P., counsel for Judge Russell Nelms, counsel for the plaintiff in the Stalking Action, and counsel for defendant in the Stalking Action.

14. Attached as **Exhibit 13** is a true and correct copy of the *Order Granting Plaintiff's Fourth Motion to Compel* issued by the District Court of Dallas County, Texas in the Stalking Action, dated August 29, 2023.

15. Attached as **Exhibit 14** is a true and correct copy of the *Order Granting Plaintiff's Fourth Motion to Compel* issued by the District Court of Dallas County, Texas in the Stalking Action, dated September 11, 2023.

Dated: September 13, 2023

/s/ Joshua S. Levy  
Joshua S. Levy